

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 965 Laser Hair Removal Or Reduction
SPONSOR(S): Careers and Competition Subcommittee, Fine
TIED BILLS: **IDEN./SIM. BILLS:** SB 744

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Careers & Competition Subcommittee	9 Y, 1 N, As CS	Wright	Anstead
2) Appropriations Committee			
3) Commerce Committee			

SUMMARY ANALYSIS

The Electrolysis Council (EC) and the Board of Medicine (BOM) under the Florida Department of Health (DOH) currently regulate the licensing and practice of electrology. "Electrology" or "electrolysis" generally means a process to permanently remove body hair using a probing device which uses electrical or heat energy to destroy the hair follicle. In order to be an electrologist, a person must obtain a license by completing a 120-hour training program, 200 practice hours, and an exam.

If an electrologist uses laser or light-based devices to remove hair, they must be supervised by a physician. Additional training is required, but maintaining additional certification is not.

The bill:

- transfers the regulation of electrology from DOH to the Department of Business and Professional Regulation (DBPR) via a type two transfer;
- eliminates the EC and establishes the electrology licensing program at DBPR, which will regulate electrologists and electrology facilities without an advisory council or oversight from BOM or DOH;
- removes language from the medical practice acts which requires certain professionals to be directly supervised by a physician during laser and light-based hair removal procedures;
- requires licensed electrologists to maintain a nationally-recognized certification to use laser or pulsed-light devices;
- eliminates temporary permits to practice electrology; and
- clarifies definitions.

The bill has an indeterminate fiscal impact on state government and does not appear to have a fiscal impact on local government.

The bill has an effective date of October 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Background

The mission of the Florida Department of Health (DOH) is to protect, promote, and improve the health of all people in Florida through integrated state, county, and community efforts.¹ This entails regulating health practitioners for the preservation of the health, safety, and welfare of the public through various professional boards and programs.²

The Florida Board of Medicine (BOM) within DOH licenses, monitors, disciplines, educates, and rehabilitates physicians and other practitioners to assure their fitness and competence in the service of the people of Florida.³ Electrology is a practice that is regulated by the BOM, with input by the Electrolysis Council (EC). The EC is a body that is housed within the BOM and advises in matters related to setting the standards of electrology practice and promulgating rules to regulate electrology.⁴

These entities are given authority to investigate complaints, impose discipline on a license, and perform inspections related to electrolysis.⁵

Practice of Electrology

“Electrolysis or electrology” is the practice of “permanent removal of hair by destroying the hair-producing cells of the skin and vascular system, using equipment and devices approved by the board which have been cleared by and registered with the United States Food and Drug Administration (FDA) and that are used pursuant to protocols approved by the board.”⁶ The process starts by inserting a probe into the hair follicle, which destroys the hair with chemical or heat energy. The hair is then removed with tweezers.⁷ The procedure takes place in a DOH-licensed electrology facility.⁸

A professional electrology license is required to practice electrology.⁹ Medical and osteopathic physicians can perform electrolysis, and, in addition, can perform laser and light-based hair removal or reduction without an electrology license.¹⁰ Advanced registered nurse practitioners (ARNP) and physician assistants (PA) may practice laser or light-based hair removal or reduction if they are directly supervised by a physician and conform to practice requirements set forth by BOM and applicable protocols.¹¹ ARNPs and PAs, if they are supervised by a medical doctor, and practice in an office at which the exclusive service being performed is laser hair removal, are exempt from the direct

¹ FLORIDA DEPARTMENT OF HEALTH, *Mission, Vision and Values*, <http://www.floridahealth.gov/about-the-department-of-health/about-us/mission-and-vision.html> (last visited Jan. 12, 2018).

² *Id.* at Licensing and Regulation.

³ FLORIDA BOARD OF MEDICINE, <http://flboardofmedicine.gov/> (last visited Jan. 12, 2018).

⁴ s. 478.44, F.S.

⁵ ss. 478.43, 478.51, and 478.52, F.S.

⁶ s. 478.42(5), F.S.

⁷ WEBMD, LLC, *Electrolysis for Hair Removal*, <https://www.webmd.com/beauty/cosmetic-procedures-electrolysis#1> (last visited Jan. 11, 2018).

⁸ s. 478.51, F.S.

⁹ s. 478.49, F.S.

¹⁰ ss. 458.348(2), 459.025(2), and 478.54, F.S.; and Email from Paul Runk, Director of the Office of Legislative Planning, Department of Health, RE: Laser Hair Removal, regarding scope of practice (Jan. 18, 2018).

¹¹ ss. 458.348(2) and 459.025(2), F.S.

supervision requirement.¹² Generally, in other areas of practice, the supervising physician decides if the procedure is to be directly¹³ or indirectly¹⁴ supervised during approved procedures.¹⁵

To qualify for licensure as an electrologist, an applicant must:

- be at least 18 years old,
- be of good moral character,
- possess a high school diploma or equivalent,
- have not committed acts which would constitute grounds to discipline an electrologist in Florida,
- have completed the required 120-hour electrolysis training program and board approved 200-hour practical application, and
- pass a written exam approved by DOH.¹⁶

DOH is permitted to issue temporary permits to qualified applicants to practice electrology that are valid until the following board meeting where licensing decisions take place, or the next exam results are issued.¹⁷ The implementation of continuous testing has lessened the need for temporary permits.¹⁸

If a licensee violates the electrology practice act, they can be disciplined¹⁹ and be given penalties set forth in the physician practice act, which include: suspension, probation, fines, reprimands, refunds, and remedial education.²⁰

Currently, there are 1,343 licensed electrologists and 310 active electrologist facilities in Florida.²¹ For Fiscal Year 2016- 2017, 30 complaints were received by DOH against electrologists, 11 of which were found legally sufficient, and 2 of which had administrative complaints filed.²²

Reports indicate that the popularity of electrolysis is on the rise²³ and employment in the field is expected to grow by twelve percent by 2024.²⁴

Laser and Pulsed-Light Devices for Hair Removal in Florida

Both laser devices and light-based devices used for hair removal or reduction work by producing light energy that is absorbed by the melanin in the hair follicle, which causes damage to the hair, therefore reducing hair growth. Specifically, laser devices produce a single, concentrated wavelength of light, and light-based devices produce a broad spectrum of light to target hair follicle melanin. Generally, a cooling gel or cooling device is applied to the skin during the procedure for protection.²⁵

¹² s. 458.348(3)(e), F.S.

¹³ Onsite supervision. rr. 64B8-30.001, F.A.C., and 64B15-6.001, F.A.C.

¹⁴ Supervision that is done remotely, but within reasonable physical proximity, or done through telecommunication. *Id.*

¹⁵ s. 464.012(3), F.S.; and rr. 64B8-30.001, F.A.C., and 64B15-6.001, F.A.C.

¹⁶ s. 478.45, F.S.

¹⁷ s. 478.46, F.S.

¹⁸ Florida Department of Health, Agency Analysis of 2018 HB 965, p. 3 (November 2, 2017).

¹⁹ s. 478.52, F.S.

²⁰ s. 456.072(2), F.S.

²¹ DOH, *supra* note 18 at 6.

²² Florida Department of Health, *Annual Report & Long-Range Plan*, Fiscal Year 2016- 2017, pp. 23, 26 (October 30, 2015), available at http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/annual-report-1617.pdf.

²³ Healthline Media, *Laser Hair Removal vs. Electrolysis: Which Is Better?*, <https://www.healthline.com/health/beauty-skin-care/laser-hair-removal-vs-electrolysis#takeaway> (last visited Jan. 13, 2018).

²⁴ DOH, *supra* note 18 at 2.

²⁵ ASC IP Holdings Pty Ltd, *Laser V IPL/VPL*, <https://thecosmeticclinic.co.nz/treatments/laser/laser-hair-removal/ipl-hair-removal/> (last visited Jan. 12, 2018).; WebMD, LLC, *Laser Hair Removal: Benefits, Side Effects, and Cost*, <https://www.webmd.com/beauty/laser-hair-removal#1> (last visited Jan. 12, 2018); and WebMD, LLC, *Beyond Lasers: Pulse-Light Therapy for That Fantasy Face*, <https://www.webmd.com/beauty/news/20000727/beyond-lasers-pulse-light-therapy-for-that-fantasy-face#1> (last visited Jan. 12, 2018).

BOM has established by rule an allowance for electrologists to use laser or light-based devices in hair removal or reduction, which are procedures above the initial scope of licensure, if they:

- have completed a 30-hour training course in laser or light-based devices for hair removal or reduction,
- have passed the Certified Medical Electrologist test (CME test) given by the Society for Clinical and Medical Hair Removal (SCMHR),
- use only the devices for which they have been trained, and
- operate under the direct supervision of a licensed physician who has been trained in such procedures.²⁶

Currently, there are 168 licensed electrologists who have the required protocols to practice laser and light-based hair removal or reduction.²⁷

SCMHR is the national organization that offers certification for use of laser and light-based devices, education programs for hair removal procedures, and membership services.²⁸ The CME test that is required by DOH is \$200 for members of the organization and \$300 for non-members.²⁹ Certification that is obtained by passing the test lasts for 5 years, at which time either taking continuing education units (7.5 units at \$25 per³⁰) or a reexamination is required to renew.³¹ Membership costs \$195 annually.³² Currently, electrologists using laser or light-based devices do not need to renew or maintain such certification to continue to use such devices.³³

National Use of Laser and Pulsed-Light Devices for Hair Removal

Laser and light-based hair removal devices were first cleared by the FDA in 1995.³⁴ However, federal law does not govern what kind of training is required to use such devices, which is left to individual states.³⁵

States handle the practice of laser hair removal in various ways, including: only allowing physicians to perform the procedure, only allowing the procedure to be performed under supervision,³⁶ only allowing the procedure to be performed by electrologists or other licensed professionals, or allowing anyone to perform the procedure.³⁷

Over one million laser and light-based procedures were performed in 2012 and the number of such procedures had been rising steadily since 2000.³⁸ While the industry is growing, so are related lawsuits for related injuries. Over a 27-year period, 63 such legal cases were found related to injuries from such devices during a hair removal procedure, a retrospective study found.³⁹

²⁶ r. 64B8-56.002, F.A.C.

²⁷ DOH, *supra* note 18 at 2.

²⁸ THE SOCIETY FOR CLINICAL & MEDICAL HAIR REMOVAL, INC., *About Us*, <https://www.scmhr.org/education/home-study/past-webinars> (last visited Jan. 11, 2018).

²⁹ *Id.* at Certified Medical Electrologist (CME) Examination Application.

³⁰ *Id.* at Past Webinars (Home Study).

³¹ THE SOCIETY FOR CLINICAL & MEDICAL HAIR REMOVAL, INC., *supra* note 28 at Certified Medical Electrologist (CME).

³² THE SOCIETY FOR CLINICAL & MEDICAL HAIR REMOVAL, INC., *supra* note 28 at Membership Application.

³³ THE SOCIETY FOR CLINICAL & MEDICAL HAIR REMOVAL, INC., *supra* note 26.

³⁴ Anna Jane Grossman, Zapping teenage torment, THE NEW YORK TIMES (Jun. 5, 2008), <http://www.nytimes.com/2008/06/05/health/05iht-05skin.13492066.html>.

³⁵ H. Ray Jalian, MD, Chris A. Jalisn, MD, and Mathew Avran, MD, JD; *Common Causes of Injury and Legal Action in Laser Surgery Causes*, 149 JAMA DERMATOLOGY 188 (2013).

³⁶ H. Ray Jalian, MD, Chris A. Jalisn, MD, and Mathew Avran, MD, JD, *Increased Risk of Litigation Associated with Laser Surgery by Nonphysician Operators*, 150 JAMA DERMATOLOGY 410 (2014).

³⁷ Roni Caryn Rabin, Laser Hair Removal's Risks, THE NEW YORK TIMES, (Jan. 6, 2014), <https://well.blogs.nytimes.com/2014/01/06/laser-hair-removals-risks/> (last visited Jan. 13, 2018).

³⁸ Satori Laser, *Laser Hair Removal Spending Statistics*, <https://www.satorilaser.com/blog/laser-hair-removal-statistics/> (last visited Jan. 13, 2018).

³⁹ JAMA DERMATOLOGY, *supra* note 35 at 190.

A similar study found that the rise in related lawsuits may be attributed to non-physician operators performing such procedures without physician supervision, but it also stated that a lack of adequate training by any practitioner could be dangerous.⁴⁰ While one third of laser hair removal procedures in total are performed by a non-physician operator, seventy-five percent of the lawsuits related to laser hair removal were done by non-physician operators. Most of these cases were performed outside of a traditional medical setting.⁴¹

Type Two Transfer

A type two transfer is a transfer of a whole or a portion of one state agency to another state agency. This generally includes the transfer of its statutory powers, duties, functions, property, personnel, and funds. Unless otherwise provided by law, the administrative rules in effect under the transferred agency at the time of transfer remain in effect until specifically changed in a manner provided by law.⁴²

Department of Business and Professional Regulation

The Florida Department of Business and Professional Regulation (DBPR), through various divisions, regulates and licenses businesses and professionals in Florida.⁴³

The Division of Professions (Professions) licenses and regulates more than 434,000 DBPR professionals through professional boards or in DBPR- regulated licensing programs.⁴⁴ The Division of Regulation (Regulations) is DBPR's enforcement authority. To ensure compliance with applicable laws and rules by those professions and related businesses, Regulations investigates complaints, utilizes compliance mechanisms, and performs inspections. Together, Professions and Regulations regulate those professions without a professional board, which include the home inspection services licensing program and mold-related service licensing program.⁴⁵

In addition to any disciplinary standards in a given DBPR profession's practice act, DBPR professional licensees are subject to the broad disciplinary standards imposed on all such licensees. The available penalties for violating DBPR standards are: suspension, probation, fines, and reprimands.⁴⁶

Effect of the Bill

The bill transfers the regulation of electrology from the Department of Health (DOH) to the Department of Business and Professional Regulation (DBPR) via a type two transfer, including its statutory powers, duties, functions, property, personnel, and funds. This action will not affect judicial or administrative actions pending at 11:59 p.m. on the day before the transfer. Lawful orders related to electrology issued by DOH will remain in effect and will be enforceable. Persons who hold a valid electrologist license or permit at the time of the transfer will retain such license or permit in the same capacity after the transfer.

The bill eliminates the Electrolysis Council and establishes the electrology licensing program at DBPR. The profession will be regulated by DBPR through the Divisions of Professions and Regulations without an advisory council or oversight from the Board of Medicine or DOH. Disciplinary penalties for electrologists will be the same as current DBPR standards for other professions.

⁴⁰ JAMA DERMATOLOGY, *supra* note 36 at 410.

⁴¹ *Id.*

⁴² s. 20.06, F.S.

⁴³ s. 20.165, F.S.

⁴⁴ FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, *Division of Professions*,

<http://www.myfloridalicense.com/dbpr/pro/index.html> (last visited Feb. 20, 2017).

⁴⁵ *Id.* at Division of Regulation.

⁴⁶ s. 455.227(2), F.S.

The bill removes language from the physician practice acts which requires electrologists and certain other professionals to be directly supervised by a physician during laser and light-based hair removal procedures.

The bill gives DBPR rulemaking authority for all aspects of electrology regulation.

The bill allows electrologists to perform laser and pulsed-light hair removal and adds a requirement that licensed electrologists must maintain a nationally-recognized certification in order to use laser or pulsed-light devices in hair removal or reduction procedures.

Under the bill, DBPR will license and inspect electrology facilities.

The bill simplifies the definition of “electrolysis or electrology” to “the permanent removal of hair using equipment and devices that have been cleared by and registered with the United States Food and Drug Administration.” The bill clarifies terminology from “light-based devices” to “pulsed-light devices.”

Temporary permits are no longer allowed under the bill.

The bill provides an effective date of October 1, 2017.

B. SECTION DIRECTORY:

- Section 1 Amends s. 20.165, F.S., to create the electrolysis licensing program at DBPR.
- Section 2 Amends s. 20.43, F.S., to remove the regulation of electrolysis from DOH.
- Section 3 Amends s. 458.348(2), F.S., to remove the requirement that the supervising physician for an electrologist or other health practitioner directly supervise laser or light-based hair removal procedures.
- Section 4 Amends s. 459.025(2), F.S., to remove the requirement that the supervising physician for an electrologist or other health practitioner directly supervise laser or light-based hair removal procedures.
- Section 5 Amends s. 478.42, F.S., to revise definitions.
- Section 6 Amends s. 478.43, F.S., to give DBPR rulemaking authority to implement this bill.
- Section 7 Repeals s. 478.44, F.S., relating to EC composition, functions, and powers.
- Section 8 Amends s. 478.45, F.S., to make conforming changes.
- Section 9 Repeals s. 478.46, F.S., relating to temporary permits.
- Section 10 Amends s. 478.47, F.S., to make conforming changes.
- Section 11 Amends s. 478.49, F.S., to require additional certification to use laser or pulsed-light devices.
- Section 12 Amends s. 478.50, F.S., to make conforming changes.
- Section 13 Amends s. 478.51, F.S., to make conforming changes.
- Section 14 Amends s. 478.52, F.S., to conform to DBPR disciplinary standards.
- Section 15 Amends s. 478.53, F.S., to make conforming changes.

- Section 16 Amends s. 478.55, F.S., to make conforming changes.
- Section 17 Amends s. 456.037, F.S., to remove electrology facilities from DOH regulation.
- Section 18 Transfers the regulation of electrology from DOH to DBPR via a type two transfer.
- Section 19 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Related to DOH

DOH will experience a recurring decrease in revenue associated with the collection of application, initial licensure, renewal, and miscellaneous fees for electrologist and electrolysis facilities. The electrolysis profession collected \$320,799, of which \$15,560 was for unlicensed activity (ULA), in the previous biennium (FY15-16 and FY16-17). As of June 30, 2017, there were 1,343 active and inactive electrologist and 310 active electrolysis facilities.⁴⁷

Related to DBPR

Without the data related to applications, licenses (initial and renewals) and inspections, accurate revenue is unable to be calculated. However, preliminary review of potential license revenue and the current level of program expenses and additional DBPR transition expenses will result in continued fund deficits.⁴⁸

2. Expenditures:

Related to DOH

According to the fiscal analysis provided by DOH, DOH will experience a recurring decrease in expenditures associated with the regulation of electrologists and electrolysis facilities. The electrolysis profession cost in the previous biennium (FY15-16 and FY16-17) was \$442,993, of which \$69,892 was for ULA. These costs include operational, regulation, investigation, and prosecution costs. The costs by categories for the previous biennium are as follows:

⁴⁷ DOH, *supra* note 18 at 6.

⁴⁸ Florida Department of Business and Professional Regulation, Agency Analysis of 2018 SB 744, p. 9 (Dec. 4, 2017).

Category	Description	FY15-16	FY16-17	Total Biennium
010000	Salary	56,839.20	76,769.18	133,608.38
030000	OPS	5,820.57	6,356.15	12,176.72
040000	Expense	13,847.83	16,185.82	30,033.65
060000	OCO	57.30	107.13	164.43
100021	Motor Vehicles	77.07	-	77.07
100399	ULA	19,609.56	50,282.78	69,892.34
100777	Contracted Services	65,845.57	67,228.67	133,074.24
103241	Risk Management	957.54	1,057.47	2,015.01
105281	Lease/Purchase Equip	382.93	461.86	844.79
107040	HR	455.77	577.43	1,033.20
180000	Non-Operating Trans	32,195.42	27,878.03	60,073.45
		196,088.76	246,904.52	442,993.28

The electrology profession employs one (1) FTE Regulatory Specialist II, (PG 17), who does not travel, and is responsible for processing Electrologist and Electrolysis Facility licensure applications, training school and continuing education provider applications, preparing meeting agendas and providing customer service to applicants and licensees. Based on LBR standards, the annual costs for this FTE is \$46,211 (Salary & Fringe/\$39,934, Recurring Expense/\$5,948, HR/\$329). Note: The non-recurring expense standard is not included in the FTE cost. Existing equipment will be transferred.

Oversight of the electrology profession is handled by one Program Administrator with responsibility for three other regulatory boards and an Executive Director with responsibility for six additional regulatory boards.

Additional personnel involved in regulation of this profession includes an Assistant Attorney General with responsibility for four other regulatory boards; the Bureau of Enforcement, which employed 0.3 FTE to complete its related inspections during fiscal year 2016-17; and the DOH Prosecution Services Unit, which utilized 0.13 FTE to handle its workload of related cases during fiscal year 2016-2017.

As of June 30, 2017, the licensed cash balance was a negative \$706,406 and the ULA cash balance was a negative \$190,027.

DOH will incur non-recurring costs associated with rule development. However, DOH has indicated that current budget authority is adequate to absorb the costs.⁴⁹

Related to DBPR

According to DBPR's fiscal analysis, DBPR has determined that total fiscal expenditures are indeterminate.⁵⁰

*Technology*⁵¹

DBPR anticipates that the addition of electrolysis licenses, transactions, complaints, inspections, exams and continuing education for facilities and professions (by examination or endorsement), and approval of pre-licensure training programs, will require modification to Versa: Regulation, Versa: Online, OnBase document management system routing, reports, website, portal search, and the Interactive Voice Response (IVR) System. These modifications can be made with existing resources.

⁴⁹ DOH, *supra* note 18 at 6 and 7.

⁵⁰ DBPR, *supra* note 48 at 6.

⁵¹ *Id.* at 7.

It will be necessary to upload existing license and application data from DOH's technology resources to DBPR's single licensing system, Versa: Regulation. These modifications can be made with existing resources.

Infrastructure and Licensing Costs – Additional DBPR Staff⁵²

Additional staffing required to implement the provisions of this bill (see Additional Comments below) would result in technology infrastructure and licensing costs. Assuming there is not adequate office space in existing DBPR offices, additional undetermined infrastructure costs will be incurred based on number, location and suitability.

For one (1) Environmental Health Specialist (Inspector) in the Division of Regulation:

- Non-recurring cost for iPads – \$732.24
- Non-recurring cost for iPad monitoring software license - \$75.00
- Non-recurring costs for network drop and standard software license - \$2,194.15
- Recurring iPad software license and data service - \$483.00
- Recurring standard software license maintenance - \$301.26

For one (1) Regulatory Specialist II position in the Bureau of Central Intake and Licensure:

- Non-recurring costs for network drop and standard software license - \$2,194.15
- Recurring standard software license maintenance - \$301.26

Infrastructure and Licensing Costs – Type Two Transfer of DOH Staff⁵³

Additional staffing resulting from the type two transfer of employees from DOH to DBPR will increase technology infrastructure and licensing costs. Although type two transfer includes equipment, DBPR will need to replace outdated or incompatible technology to ensure continuity of operations. The number of transferred staff is unclear.

For each additional employee:

- Non-recurring cost for desktop computers - \$1,100.00
- Non-recurring cost for Cisco desk phones - \$600.00
- Non-recurring costs for network drops - \$150.00
- Non-recurring costs for standard software licenses - \$1,694.15
- Recurring standard software license maintenance - \$301.26

If inspections are required:

- Non-recurring cost for iPads – \$732.24
- Non-recurring cost for iPad monitoring software license - \$75.00
- Recurring iPad software license and data service - \$483.00

If there is not adequate office space in existing DBPR offices for the transferred staff, additional undetermined infrastructure costs will be incurred based on number, location and suitability for the addition of staff

Division of Regulation⁵⁴

The Division of Regulation is responsible for the intake of complaints, inspection of establishments and investigations of businesses and professions under the Division of Professions. The addition of the regulation of electrology will cause additional complaints to analyze, inspections to be conducted and investigations to report. In their 2016-17 Annual Report, the Department of Health's Division of Medical Quality Assurance reported that the Electrolysis Council had 39 complaints, 21 legally sufficient for investigation and 220 inspections completed. The division is requesting 1 FTE

⁵² *Id.*

⁵³ *Id.* at 8.

⁵⁴ *Id.*

Environmental Health Specialist (Inspector) to handle the additional work. The Division of Regulation will request an additional inspection position using the following methodology for calculation:

39 complaints / 1200 complaints per analyst, per year	= .03	
220 inspections/ 1200 inspections per year, per inspector	= .18	
21 investigations/ 140 investigations per year, per investigator	= .25	
Misc. (investigative report review, mail, phone calls, Certificates of non-licensure)	=.05	
		.51 FTE

*Bureau of Education and Testing*⁵⁵

Applicants for licensure by examination under the electrolysis program are required to complete 120 hours of academic training and evidence 200 hours of practical training and experience. Existing training programs will need to be transferred to the department's licensing system for tracking. Additionally, future training programs will need to be reviewed and evaluated by the Bureau. According to the Department of Health's list of "Florida Approved Training Schools", there are currently 24 approved electrolysis training programs.

The electrolysis program's rules require applicants to take and pass the International Board Electrologist Certification (IBEC) licensure examination developed by the American Electrology Association (AEA) and administered by a third-party examination vendor. It is unclear whether this will require the Bureau to engage in a contract with AEA and/or the third-party vendor to provide examinations to candidates. Additional staffing in the Bureau's Testing Unit may be required to accommodate examination requests.

Prior to renewal, electrolysis licensees must complete 20 hours of continuing education. Existing continuing education courses will need to be transferred to the department's licensing system for tracking. Additionally, future continuing education courses will need to be reviewed and evaluated by the Bureau. The number of courses currently approved is unknown. Additional staffing in the Bureau's Continuing Education Unit may be required to accommodate course approval requests. The department provides continuing education monitoring services that are performed by a third-party vendor for the Department of Health. This may impact the Department of Health's vendor contract.

*Division of Service Operations*⁵⁶

Based upon the unknown complexity of the business processes associated with this program the Bureau of Central Intake and Licensure will need one FTE Regulatory Specialist II position. The Bureau will perform the document intake, revenue processing, renewal administration and the processing of all applications once the program is transferred to the Department.

*Fiscal Comment*⁵⁷

The FY 2017-18 DOH annual report indicated the EC fund is in a negative balance. The annual report also indicates annual expenses are greater than revenues and the fund will continue in a negative balance for the foreseeable future.

In addition to the current DOH regulatory expenses, DBPR will require two additional FTEs to perform license processing and regulatory inspections and investigations. These two FTEs will require \$94,265 of recurring Salaries and Benefits funding and \$17,787 non-recurring and \$13,191 recurring Expenses funding. Other program support needs will require \$3,000 recurring Operation of Motor Vehicles funding for regulatory inspections.

⁵⁵ *Id.* at 8 and 9.

⁵⁶ *Id.* at 9.

⁵⁷ *Id.*

The known additional budgetary needs are as follows:

	FY2018-19	FY 2019-20	FY 2020-21
Salaries and Benefits	94,265	94,265	94,265
Expenses	30,978	13,191	13,191
Operation of Motor Vehicles	3,000	3,000	3,000
Transfer to DMS-HR Services	658	658	658
Total	128,901	111,114	111,114

Additional costs may be associated with the unknown number of FTEs that would be transferred from DOH to DBPR, the number of vehicles and property transferred, unanticipated IT costs associated with integrating DOH data into DBPR data infrastructure and unknown initial and renewal licensing processes, continuing education requirements and regulatory impact. The expenditure and revenue impact of this bill is unable to be determined until additional information is available from DOH.⁵⁸

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will increase costs to maintain an electrology license for those who use laser and pulsed-light devices because the licensee will have to maintain their SCMHR certification and pay costs associated with doing so every five years. Current policy is that the licensee has to pass the exam only one time to continually use such devices.

The cost for running an electrology facility which uses laser and pulsed-light devices may be cheaper in certain circumstances because doctor supervision will no longer be required.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

⁵⁸ *Id.*

DBPR will need to develop and modify rules to implement this bill. Authority to do so is found in s. 478.43, F.S., of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill may need further clarification with regards to which professional licensees, other than an electrologist and a physician, may practice laser hair removal and under what circumstances.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 16, 2018, the Careers and Competition Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- removes language from the medical practice acts which requires electrologists and other licensees to be directly supervised by a physician during laser and light-based hair removal procedures,
- gives the Department of Business and Professional Regulation rulemaking authority for all aspects of electrology regulation, and
- provides for a later effective date of October 1, 2018.

This analysis is drafted to the committee substitute as passed by the Careers and Competition Subcommittee.